

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

IN RE: KEURIG GREEN MOUNTAIN SINGLE-SERVE COFFEE ANTITRUST LITIGATION

*This Document Relates to:*

MCLANE COMPANY, INC.,

Plaintiff,

-against-

KEURIG GREEN MOUNTAIN, INC.,

Defendant.

Case No. 1:14-md-02542-VSB-HBP  
[Related Case No. 19-CV-0325]

~~[PROPOSED]~~ PRELIMINARY  
CASE MANAGEMENT PLAN AND  
SCHEDULING ORDER

<b>USDC SDNY</b>
<b>DOCUMENT</b>
<b>ELECTRONICALLY FILED</b>
DOC #: _____
DATE FILED: <u>3/8/2019</u>

VERNON S. BRODERICK, United States District Judge:

Pursuant to Rules 16-26(f) of the Federal Rules of Civil Procedure, the Court hereby adopts the following Case Management Plan and Scheduling Order:

1. All parties do not consent to conducting further proceedings before a United States Magistrate Judge, including motions and trial, pursuant to 28 U.S.C. § 636(c), except in accordance with Your Honor's Order of Reference dated February 21, 2018. (ECF No. 419).
2. The parties have not discussed resolution and will continue to reflect on whether settlement discussions might be productive.
3. This case is to be tried to a jury.
4. Without leave of the Court, additional parties must be joined no later than sixty (60) days before the close of fact discovery.
5. The parties stipulate that all parties are subject to the MDL Protective Order, ECF No. 496, the MDL ESI and TAR protocols (ECF Nos. 41 and 417-1), the Stipulation Regarding Non-Discoverability of Certain Expert Materials and Communications (ECF No. 495), the Court's November 18, 2016 Order regarding the Expert Discovery Schedule (ECF No. 358), and that all depositions previously taken in the MDL or its individual, related cases will be usable by all parties in this matter.
6. Without leave of the Court, no additional causes of action or defenses may be asserted by the parties to the McLane action more than thirty (30) days after Defendant's answer has

been served. Thereafter, the parties will act in accordance with Federal Rule of Civil Procedure 15.

7. Initial disclosures pursuant to Rule 26(a)(1) of the Federal Rules of Civil Procedure shall be made no later than fourteen (14) days following the date of the 26(f) conference.
8. All fact discovery is to be completed no later than November 21, 2019. The parties are to conduct discovery in accordance with the Federal Rules of Civil Procedure and the Local Rules of the Southern District of New York. The following interim deadlines may be extended by the parties on consent without application to the Court, provided that the parties meet the above-referenced deadline for completing fact discovery.
  - a. Initial Requests for Production of documents shall be served by March 8, 2019.
  - b. Third-party document subpoenas will be served at the parties' discretion.
  - c. The discovery conference under Federal Rule of Civil Procedure 26(f) was held on February 26, 2019.
  - d. Responses to the initial sets of Requests for Production shall be served no later than thirty (30) days following service of the initial set of Requests for Production.
  - e. The parties shall agree upon custodians, or approach the Court with disagreement, within thirty (30) days of serving Responses to initial Requests for Production.
  - f. Each party will make a substantial production of documents, subject to any objections, for the agreed custodians no later than ninety (90) days following the deadline for agreement on custodians or the Court's resolution of any disagreement on custodians.
  - g. Nothing in this Order is intended to waive or alter the parties' rights to request additional custodians as necessary. See ESI Order ¶¶ VI.E.4, VI.H.1.
  - h. The parties acknowledge that subsequent Requests for Production may be served, and that the parties will meet and confer in good faith on a reasonable production schedule to the extent that production by ninety (90) days before the close of fact discovery is not practicable based on the date of service of the subsequent Requests for Production.
  - i. Productions are to be made on a regular, rolling basis. See ESI Order ¶ VI.H.3.
  - j. Interrogatories (except for contention interrogatories) shall be served no later than ninety (90) days before the close of fact discovery, with the exception of interrogatories served by McLane on Keurig or by Keurig on McLane that are specific to McLane or McLane's relationship with Keurig, which may be served no later than sixty (60) days before the close of fact discovery.

- k. Contention Interrogatories and Requests for Admission shall be served no later than thirty (30) days after the close of fact discovery, and in any event before the filing of any dispositive motion.
- l. Depositions of merits witnesses shall be completed no later than the close of fact discovery.
  - 1. There is no priority for depositions by reason of a party's status as a plaintiff or a defendant.
  - 2. Depositions may begin at any time and will be subject to the Deposition Protocol in this matter.
- 9. All discovery shall be completed no later than May 1, 2020.
- 10. The Court will conduct a post-discovery conference on \_\_\_\_\_ at \_\_\_\_\_ ***[To be completed by the Court.]*** No later than fourteen (14) days in advance of the conference, the parties are to submit a joint letter updating the Court on the status of the case, including but not limited to whether either party intends to file a dispositive motion and what efforts the parties have made to settle the action.
  - a. If either party contemplates filing a dispositive motion, the post-discovery conference will function as a pre-motion conference required by Rule 4.A of the Court's Individual Rules and Practices. Pre-motion letters are to be submitted by \_\_\_\_\_. ***[To be completed by the Court.]***
    - 1. The parties shall meet and confer concerning any issues related to the authentication and admissibility of evidence before dispositive motions are filed.
  - b. If neither party contemplates a dispositive motion, the post-discovery conference will function as a pretrial conference at which a trial date will be set.
- 11. Unless otherwise ordered by the Court, the joint pretrial order and additional submissions required by Rule 6 of the Court's Individual Rules and Practices shall be due 60 days from the close of discovery, or if any dispositive motion is filed, 60 days from the Court's decision on such motion. This case shall be trial ready 120 days from the close of discovery or from the Court's decision on any dispositive motion.
- 12. Counsel for the parties do not propose an alternative dispute resolution for this case.
- 13. The length of any trial is yet to be determined.
- 14. For the sake of efficiency, the parties shall file all documents in this matter on the MDL docket at 1:14-md-02542. The parties need not make duplicate filings at 1:19-CV-0325.

SO ORDERED.

Dated: March 8, 2019

New York, New York

A handwritten signature in black ink, reading "Vernon Broderick". The signature is written in a cursive style with a large, stylized "V" and "B".

Vernon S. Broderick  
United States District Judge